

**ORIGINAL**

Dated this **5th** day of **January** 2001

**TENANCY AGREEMENT**

Between

**TOH POH HENG**  
**(NRIC NO: 581007-01-5597)**  
46-48 Jalan Jasa Merdeka  
Taman D.T. Chik Karim  
Batu Berendam  
75350 Melaka

And

**DIGI TELECOMMUNICATIONS SDN. BHD. (201283 - M)**

Contract No: DT-CON-10541

# ORIGINAL

This Tenancy Agreement made the day and year stated in **Section 1** of the **First Schedule** hereto

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## BETWEEN:

The party described in **Section 2** of the **First Schedule** hereto (hereinafter referred to as "the Landlord") of the one part

## AND

**DiGi Telecommunications Sdn. Bhd.** (Company No: 201283-M), a private limited company incorporated in Malaysia and having its place of business at Lot 30, Jalan Delima 1/3, Subang Hi-Tech Industrial Park, 40000 Shah Alam, Selangor Darul Ehsan (hereinafter referred to as "the Tenant") of the other part.

(The Landlord and the Tenant are hereinafter collectively referred to as "Parties" or individually referred to as "Party").

## **ARTICLE I RECITALS**

### **1.1 License to operate**

The Tenant is licensed to establish operate and maintain a mobile cellular telephone network and provide cellular mobile telephone services in Malaysia.

### **1.2 Installation of base transceiver stations**

The Tenant's mobile cellular network requires base transceiver stations to be installed in various areas throughout the country for the purpose of transmitting and receiving radio transmissions of users and subscribers of the mobile cellular telephone network.

### **1.3 The said Land**

The Landlord is registered proprietor of all that piece of land which is more particularly described in **Section 3(a)** of the **First Schedule** hereto (hereinafter referred to as "the said Land") together with the building which is more particularly described in **Section 3(b)** of the **First Schedule** hereto (hereinafter referred to as "the Building").

### **1.4 Demised Premises**

The Tenant is desirous of renting a small part of the Building which is more particularly described in **Section 4** of the **First Schedule** hereto (hereinafter referred to as "the Demised Premises") to install such base transceiver station facility including a small part of the roof top of the Building for the installation of antennas.

and/or any other equipment, installation or devices subject to the terms and conditions herein contained.

## **ARTICLE II INTERPRETATION AND DEFINITION**

### **2.1 Definition**

Wherever used in this Agreement unless the context shall otherwise require, the following expressions shall have the following meanings:-

"Appropriate Authority"	means any governmental semi or quasi governmental and/or statutory departments, agencies or bodies.
"Building"	shall mean the building constructed on the Said Land which is more particularly described in <b>Section 3(b) of the First Schedule</b> hereto.
"Commencement Date"	shall mean the date as stipulated in <b>Section 2 of the Second Schedule</b> hereto.
"Demised Premises"	shall mean the part of the Building which is more particularly described in <b>Section 4 of the First Schedule</b> hereto.
"Deposit"	shall mean the Rental Deposit and the Utility Deposit.
"Expiry Date"	shall mean the date as stipulated in <b>Section 3 of the Second Schedule</b> hereto.
"Landlord"	shall mean the party whose name and description are stated in <b>Section 2 of the First Schedule</b> hereto.
"Monthly Rental"	shall mean the rental sum as stipulated in <b>Section 4 of the Second Schedule</b> hereto which is payable by the Tenant to the Landlord in the manner and in accordance with <b>Section 5 of the Second Schedule</b> hereto.
"Rental Deposit"	shall mean the sum as stipulated in <b>Section 6(a) of the Second Schedule</b> hereto.

### **ARTICLE III TENANCY**

#### **3.1 Agreement to Let**

The Landlord hereby grants and the Tenant hereby accepts the tenancy of the Demised Premises for the duration of the Term which shall commence on the Commencement Date and shall expire on the Expiry Date with a Monthly Rental payable in advance by the Tenant to the Landlord in the manner described in Section 5 of the Second Schedule.

### **ARTICLE IV DEPOSIT**

#### **4.1 Deposit**

The Tenant shall pay to the Landlord the Deposit in the manner stipulated in Section 7 of the Second Schedule hereto being the deposit as security for the due observance and performance by the Tenant of the terms and conditions of this Agreement.

#### **4.2 Deposit to be maintained.**

The Deposit shall be maintained during the Term hereby created and shall not without the prior written consent of the Landlord first had and obtained be deemed to be or treated as payment of or towards rental hereunder and upon the expiration, termination or sooner determination of the Term hereby created the same shall be returned forthwith to the Tenant free of interest less such sum owing to the Landlord.

#### **4.3 Refund of the Deposit**

The refund of the Deposit free of interest as stated in Clause 4.2 above shall be made by the Landlord within fourteen (14) days from the date of written notice issued by the Tenant, failing which, any sum or sums due hereunder shall be construed as debt due by the Landlord to the Tenant.

### **ARTICLE V RENT AND ASSESSMENT**

#### **5.1 Rent**

The Tenant hereby agrees that the Monthly Rental shall be paid by the Tenant to the Landlord in the manner stipulated in Section 5 of the Second Schedule hereto. The Monthly Rental is deemed to be inclusive of all bank charges/commission in the event that the payment is effected by cheque.

**5.2 Increase in rent**

The Parties hereby agree that the rent for the second term of this tenancy exercisable under the option granted pursuant to Clause 9.5 herein shall be determined in accordance with **Section 9 of the Second Schedule** hereto.

**5.3 Increase in Assessment/Quit Rent**

In the event of the assessment and/or quit rent payable in respect of the Demised Premises and/or the said Land thereon being at anytime and from time to time be increased above the amount payable as at the Commencement Date:-

5.3.1 if such increase is by way of annual value or rate of assessment or change in government policy) then the Tenant shall pay the proportion of such increase or increases as the total area of the Demised Premises bears to the total area of the Building; or

5.3.2 if such increase is due to the installation of any of the Tenant's equipment or device on the Demised Premises, then the Tenant shall bear the difference between the existing assessment and/or quit rent and the new assessment and/or quit rent as imposed by the Appropriate Authority PROVIDED ALWAYS THAT the Tenant's duty to pay is deemed to be completed upon payment/settlement of the said difference by the Tenant to the Landlord.

**ARTICLE VI  
COVENANTS BY THE TENANT WITH THE LANDLORD**

**6.1 Payment of Monthly Rental**

The Tenant shall pay the Monthly Rental and other sums payable under this Agreement in the manner as herein provided.

**6.2 Payment of Other Charges**

The Tenant shall promptly pay all charges in respect of electricity and all relevant charges incurred by the Tenant for the operation of the base transceiver station and/or any other equipment, installation or device installed on the Demised Premises, subject to the method of payment to be agreed between the Landlord and the Tenant.

**6.3 Inspection**

The Tenant shall permit the Landlord or its agents with or without workmen at all reasonable times with prior notice to the Tenant to enter upon and examine the condition of the Demised Premises and permit the Landlord to execute such repairs as the Landlord deems necessary, subject to the terms and conditions of this Agreement.

**6.4 Alterations and renovation**

The Tenant shall not make or permit to be made any alterations in or additions to the Demised Premises without the prior written consent of the Landlord which consent shall not to be unreasonably withheld, if any of such alterations or additions are necessary for the installation of the Tenant's equipment, installation or devices.

**6.5 Prohibition of Nuisance, Noxious etc.**

The Tenant shall not carry on, permit or suffer anything to be done in or about the Demised Premises any offensive, noxious, noisy or dangerous business, manufacture or use whatsoever or use the Demised Premises for any illegal or immoral purpose or cause nuisance, annoyance or inconvenience to the Landlord or neighbours or occupiers of adjoining premises.

**6.6 Use of the Demised Premises**

The Tenant shall not use the Demised Premises for any purpose other than for the purpose as stipulated in Section 5 of the **First Schedule**.

**6.7 Prohibition Against Assignment**

Subject to Clause 8.4 herein, the Tenant shall not sub-let, assign or part with the possession of the Demised Premises without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

**6.8 Vacating of the Demised Premises**

The Tenant shall on the expiration of the Term or termination of this tenancy, remove all equipment, installation or any other devices which may have been installed on the Demised Premises and to peacefully yield up the Demised Premises in good and tenantable condition, fair wear and tear excepted.

**ARTICLE VII  
COVENANTS BY THE LANDLORD WITH THE TENANT**

**7.1 Payment of the Outgoings**

The Landlord shall pay all quit rent, assessment or other rates including any increased thereof now or to be imposed on or payable on the said Land and/or the Demised Premises.

**7.2 Electricity Source**

The Landlord shall permit the Tenant to utilize or connect an electricity source to the Demised Premises to enable the proper operation and functioning of any of the Tenant's equipment, installation or device.

7.3 Free and Uninterrupted Access

The Landlord shall grant the Tenant free and uninterrupted access to the Demised Premises for the purposes of enabling the Tenant's agents to install, check, test, maintain, repair or service any of the Tenant's equipment, installation or device.

7.4 Quiet Enjoyment

The Landlord shall allow the Tenant quiet and peaceful enjoyment of the Demised Premises during the Term or the renewed term without any interruption or disturbance by the Landlord or any other person claiming under or in trust for him.

7.5 Duty to Inform

The Landlord shall:-

- 7.5.1 inform the Tenant should any person or party intend to commence any similar business as the Tenant or install a base transceiver station or any similar equipment, installation or device similar to that of the Tenant on the Demised Premises;
- 7.5.2 inform the Tenant of the erection of any new structure of any kind whatsoever which would or might interfere with or disrupt the operations and transmissions of any of equipment, installation or device installed or to be installed from time to time in the Demised Premises by the Tenant.

7.6 Duty to Insure

The Landlord shall insure and keep insured the Building and/or the Demised Premises (excluding the Tenant's equipment, installation, device, fixture, furniture, fittings or other property which shall be insured by the Tenant at the Tenant's own cost and expense) from loss or damage by fire and such other risks as the Landlord may deem expedient.

7.7 Not to Tamper

The Landlord shall not at any time tamper with any of the Tenant's equipment, apparatus, installation or device or disconnect the power source required to operate any of the Tenant's equipment, installation or device.

7.8 Not to Withhold Consent

The Landlord shall not unreasonably withhold consent from the Tenant in respect of alterations or additions to be made to or erected on the Demised Premises for the purposes of installing any equipment, installation or device essential to the operation of the Tenant's business.

## ARTICLE VIII MUTUAL COVENANTS

### 8.1 Claim

In the event that any claim made by a Party against the other Party or refund to be made by a Party to the other Party under this Agreement shall be required to be recovered through any process of law or to be placed in the hand of solicitors or agents for collection, then the Party whom claim is made against shall pay all fees and expenses incurred by the claiming Party in respect of such recovery or collection.

### 8.2 Insurance

Both Parties shall not do any thing whereby any insurance effected by a Party (hereinafter referred to as "the claiming Party") in respect of the claiming Party's property against loss or damage by fire may be rendered void or voidable or whereby the premium for any such insurance may be liable to be increased and shall pay to the claiming Party upon written demand from the claiming Party within seven (7) days thereof all sums paid by the claiming Party by way of increased premium and all losses or expenses sustained or incurred by the claiming Party in respect of such policy or policies as result of non-observance of this clause by the other Party (hereinafter referred to as "the defaulting Party") without prejudice to other rights and remedies which the claiming Party may have against the defaulting Party.

### 8.3 Legal Proceedings

In the event there is legal proceeding, suit or claim of any nature whatsoever instituted against the Landlord by any relevant authorities for default committed by the Tenant, then the Landlord shall approve and consent to the appointment of the solicitors arranged by the Tenant to act for and on behalf of the Landlord for the purpose of defending the Landlord in the said proceeding, suit or claim and all cost and expenses incurred shall be borne by the Tenant.

### 8.4 Sharing with Other Operators

In the event the Tenant is desirous of sharing any of the Tenant's equipment, installation or device with other communications operators, then the Tenant shall apply and obtain the Landlord's consent in writing which consent shall not be unreasonably withheld.

## ARTICLE IX DETERMINATION/TERMINATION

### 9.1 Early Determination

Notwithstanding the provisions for the Term of this tenancy, the Tenant shall have the absolute discretion to exercise its option to terminate this tenancy before the Expiry Date upon:-



- 9.1.1 the expiry cancellation or suspension of the permit or consent issued to the Tenant by the relevant authorities to conduct its core business in telecommunication;
- 9.1.2 the requisite approvals for the installation of any of the Tenant's equipment or its telephone trunking or cabling facilities and/or the construction/erection of any of the Tenant's installation or device cannot be obtained or are restricted in any law (whether temporary or otherwise) either by law, Order, Ordinance or Regulation applicable in Malaysia; or
- 9.1.3 any buildings, structures or works of any nature or kind whatsoever are erected in the vicinity of the Demised Premises or any part thereof which screen, shield or interfere with the signals transmitted or received by any of the Tenant's equipment, installation or device; or
- 9.1.4 the operation of any of the Tenant's equipment, installation or device becomes difficult or impossible for any reason whatsoever.

then, notwithstanding the provisions herein, the Tenant shall have the right forthwith to terminate this Agreement without indemnity of any nature and be discharged of any obligation hereunder, by giving one (1) month written notice to the Landlord whereupon the Tenant shall at its own expense remove all of the Tenant's equipment, installation or device and vacate the Demised Premises, and thereafter the Landlord shall not later than seven (7) days after the receipt of the notice of early termination refund to the Tenant any rental which has been paid in advance and the Deposit free of interest.

## 9.2 Termination

If any covenant on the Tenant's part herein contained shall not be performed or observed or the Tenant shall enter into compulsory or voluntary liquidation otherwise than for the purpose of reconstruction or amalgamation or if any distress or execution shall be levied on the Demised Premises then and in such case the Landlord shall be entitled to give written notice to the Tenant to remedy such breach or non-observance within twenty one (21) days) and if the Tenant neglects or refuses to remedy such breach or non-observance then it shall be lawful for the Landlord at any time thereafter to re-enter upon the Demised Premises or any part or parts thereof in the name of the whole and thereupon this tenancy shall absolutely cease and determine and the Deposit shall be absolutely forfeited to the Landlord.

## 9.3 Force Majeure

If the Demised Premises or any part thereof shall be damaged or destroyed by fire or other risks so as to render the Demised Premises unfit for use (except where such fire or other risks has been caused by the default or negligence of the Tenant or its servants or agents) the Monthly Rental hereby reserved shall be suspended until the Demised Premises shall again be rendered fit for occupation and use PROVIDED that

in the event of total destruction of the Demised Premises the Tenant shall be entitled to summarily terminate this tenancy. In the event the Landlord deciding not to rebuild or reinstate the damage portion of the Demised Premises or any part thereof, or the Tenant deciding not to continue with this tenancy, then the Monthly Rental hereby reserved shall cease and this tenancy shall determine from the happening of such destruction or damaged as aforesaid and the Tenant shall peaceably and quietly leave surrender vacate deliver and yield up possession of so much of the Demised Premises as shall not have not been destroyed (fair wear and tear excepted) and the provision of Clause 4.3 shall apply.

#### **9.4 Early Termination**

The Parties hereby agreed that in the event of early termination of the Term hereby created or the renewed term (if any) by:-

9.4.1 the Tenant, other than those provided under Clause 9.1 and 9.3, then the Tenant shall pay to the Landlord a sum equivalent to the Monthly Rental for the unexpired term and the Landlord shall at its own absolute discretion forfeit the Deposit.

9.4.2 the Landlord, other than those provided under Clause 9.2 and 9.3, then the Landlord shall pay to the Tenant a sum equivalent to the Monthly Rental for the unexpired term and a further sum equivalent to the Deposit as agreed liquidated damages.

#### **9.5 Option to Renew**

In consideration of rental payable by the Tenant under this Agreement and no existing breach of all the covenants and terms on the part of the Tenant hereinafter contained, the Landlord shall grant to the Tenant the option to renew this tenancy for such number of terms and conditions as specified in Section 8 of the Second Schedule hereto.

### **ARTICLE X MISCELLANEOUS**

#### **10.1 Illegality**

In the event that one or more of the provisions contained in this Agreement shall for any reason be held to be unenforceable, illegal or otherwise invalid in any respect under the law governing this Agreement or its performance, such unenforceability, illegality or invalidity shall not affect the remaining provisions of the relevant clause(s) or any other provisions of this Agreement and this Agreement shall then be construed as if such unenforceable, illegal or invalid provisions had never been contained herein.

10.2 Successor-in-title

This Agreement shall bind the successors-in-title permitted assigns of the Landlord and the Tenant

10.3 Entire Understanding

This Agreement constitutes the entire agreement between the Parties hereto and shall not be amended, varied or altered, unless such amendment, variation or alteration is in writing and signed by the Parties hereto.

10.4 Cost

Each Party shall bear its own solicitor's costs but the Tenant shall bear the costs of stamping this Agreement.

10.5 Time

Time wherever mentioned in this Agreement shall be of the essence

10.6 Governing Laws

This Agreement shall be governed by the laws of Malaysia and the Parties shall submit to the jurisdiction of the Courts of Malaysia

10.7 Compulsory Acquisition

In the event that the said Land and/or Building and/or Demised Premises or any part thereof shall during the duration of the Term be or become affected by any notice of acquisition or intended acquisition under the Land Acquisition Act, 1960 or other legislation in Malaysia, the Landlord shall immediately give written notice thereof to the Tenant and the Tenant shall be entitled to terminate this tenancy hereina with effect from the date of notice of acquisition or intended acquisition whereupon the Landlord shall forthwith refund to the Tenant the Deposit in accordance with the provisions of Clause 4.3

10.8 Notices

10.8.1 Any notice and/or communication to be given or made by the Parties shall be given or made in writing and must be left at the address of the addressee, or sent by prepaid ordinary post to the address of the addressee or sent by facsimile to the facsimile number of the addressee.

10.8.2 Any notice and/or communication is, in the absence of contrary evidence deemed to be received.

10.8.2.1 in the case of a posted letter, on the third day after posting, and

- 10.8.2 in the case of facsimile, on production of a transmission report by the machine from which the facsimile was sent which was indicated that the facsimile was sent in its entirety to the facsimile number of the recipient; and
- 10.8.2.3 in the case of a notice and/or communication left at the address of the addressee, at the time the notice and/or communication was so left

(9) Special terms

This Agreement shall be subject to such other express terms and conditions (if any) as may be mutually agreed between the Tenant and the Landlord as specified in the **Third Schedule**. In the event of any conflict or inconsistency between the provisions contained in this Agreement and the provisions contained in the **Third Schedule**, the provisions contained in the **Third Schedule** shall prevail.

[ THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK ]

IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first written above.

SIGNED by  
for and on behalf of  
the Landlord  
in the presence of :-

)   
)  
)  
)

TAN BOON PENG  
Witness Name : TAN BOON PENG  
NRIC No. : 6195050

SIGNED by  
for and on behalf of  
DiGi Telecommunications Sdn. Bhd.  
in the presence of :-

)   
)  
)  
)

DIGI TELECOMMUNICATIONS SDN BHD (201203-M)  
(Formerly known as: ARA TELECOMMUNICATIONS SDN BHD)  
LOT 30, JALIN DE'LIHA 1/3,  
SUBANG HI-TECH INDUSTRIAL PARK,  
40000 SHAH ALAM,  
SELANGOR DARUL EHSAN.  
TEL: 03-721 1800 FAX: 03-721 8202

SACHTY DORAIRAJ  
Witness Name : **SACHTY DORAIRAJ**  
**Property Executive**  
NRIC No. : **A0382006**

[This is the execution page of Tenancy Agreement between Toh Poh Heng and DiGi Telecommunications Sdn. Bhd.]

**FIRST SCHEDULE**

(to be read and construed as an integral part of this Agreement)

Section	Description	Particulars
1.	The day and year of this Agreement	5th January 2001
2.	The name and address of the Landlord	TOH POH HENG (NRIC NO: 581007-01-5597) 46-48 Jalan Jasa Merdeka Taman D.T. Chik Karim Batu Berendam 75350 Melaka
3.	(a) The particulars of the said Land  (b) The particulars of the Building	3-5 Jalan PM 7 Mahkota Square Melaka
4.	The particulars of the Demised Premises	Whole of 3 <sup>rd</sup> floor and part of roof top space of the Building
5.	Use of the Demised Premises	Telecommunication Station

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**SECOND SCHEDULE**

(to be read and construed as an integral part of this Agreement)

Section	Description	Particulars
1.	The Term	Three (3) years
2.	Commencement Date	1 <sup>st</sup> September 2000
3.	Expiry Date	31 <sup>st</sup> August 2003
4.	Monthly Rental	RM800.00 (Ringgit Malaysia Eight Hundred Only)
5.	Manner of payment of the Monthly Rental	In advance within the first seven (7) days from the beginning of each month
6.	The Deposit (a) Rental Deposit (b) Utility Deposit	RM2,400.00 (Ringgit Malaysia Two Thousand Four Hundred Only)
7.	Manner of payment of the Deposit	Upon acceptance of Rental Proposal
8.	The duration for the renewed term (Clause 9.5)	Two (2) further terms of three (3) years each
	The rent payable for the renewed term, (Clause 5.2)	Any increase in rent for the renewed term shall not exceed ten percentum (10%) of the last preceding rental OR the prevailing market value (whichever is lower).

**THIRD SCHEDULE**

(to be read and construed as an integral part of this Agreement)

**SPECIAL TERMS**

Nil